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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER	
BAYARD, DJENANE M	

ART UNIT	PAPER NUMBER
2141	

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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/611,360	GAYDOS ET AL.	
	Examiner	Art Unit	
	Djenane M. Bayard	2141	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *14 June 2007*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *1-57* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *1-57* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

1. This is in response to amendment filed on 6/14/07 in which claims 1-57 are pending.

Response to Arguments

2. Applicant's arguments with respect to claims 1-57 have been considered but are moot in view of the new ground(s) of rejection.

Claim Rejections - 35 USC § 102

3. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

4. Claims 1, 4, 8-9, 13-14, 18-20, 23, 27-28, 32-33, 37-39, 42, 46-47, 51-52 and 56-57 are rejected under 35 U.S.C. 102(e) as being anticipated by U.S. Patent Application No. 2004/0123325 to Ellis et al.

a. As per claim 1, 20 and 39, Ellis et al teaches a method for handling content request and delivery, comprising the steps of: receiving at least one request for content sent upstream from at least one user over a first network (See page 2, paragraph [0021 and 0024] and figure 1); sending the request for content upstream to a content library over a second network (See page 2,

paragraph [0023], *upstream data from the set-top terminal to a headend is communicated via a reverse passband*); receiving content retrieved from the content library, based on the request, and sent downstream from the content library over a third network, wherein the third network is distinct from the second network; and processing the retrieved content for delivery downstream to the user (See page 2, paragraph [0021 and 0025], *downstream communication from headhend to set-top terminal*).

b. As per claims 4, 23 and 42, Ellis et al teaches the claimed invention as described above. Furthermore, Ellis et al teaches sending the retrieved content downstream to the user over the first network (See page 2, paragraph [0019]).

c. As per claims 8, 27 and 46, Ellis et al teaches the claimed invention as described above. Furthermore, Ellis et al teaches wherein the second network and the third network are distinct logical networks (See page 2, paragraph [0021-0023]).

d. As per claims 9, 28 and 47, Ellis et al teaches the claimed invention as described above. Furthermore, Ellis et al teaches wherein the second network and the third network are distinct physical networks (See page 2, paragraph [0021-0023]).

e. As per claims 13, 32 and 51, Ellis et al teaches the claimed invention as described above. Furthermore, Ellis et al teaches wherein the requested content includes at least one of video data, audio data and binary large object data (See pages 1-2, paragraph [0016]).

f. As per claims 14, 33 and 52, Ellis et al teaches the claimed invention as described above. Furthermore, Ellis et al teaches wherein the user is associated with a content-on-demand subscriber (See page 1, paragraph [016]).

g. As per claims 18, 37 and 56, Ellis et al teaches the claimed invention as described above. Furthermore, Ellis et al teaches wherein the content retrieved from the content library is received as raw data, and the step of processing includes performing file system processing on the retrieved content (See Page 2, paragraph [0024]).

h. As per claims 19, 38 and 57, Ellis et al teaches the claimed invention as described above. Furthermore, Ellis et al teaches wherein the step of processing includes transforming the retrieved content into a format suitable for delivery to the user (See page 2, paragraph [0024 and 0031]).

5. Claims 2-3, 5, 10-12, 21-22, 24, 29-31, 40-41, 43, 48-50 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2004/0123325 to Ellis et al in view of U.S. Patent Application No. 2005/0044166 to Colville et al.

a. As per claims 2, 21 and 40, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the step of processing comprises buffering the retrieved content.

Colville et al teaches a startup method and apparatus for use in streaming content. Furthermore, Colville et al teaches buffering the retrieved content (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate buffering the retrieved content as taught by Colville et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

b. As per claims 3, 22 and 41, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the buffering of the retrieved content reduces variations in a rate of delivery of the retrieved content to the user.

Colville et al teaches a startup method and apparatus for use in streaming content. Furthermore, Colville et al teaches wherein the buffering of the retrieved content reduces variations in a rate of delivery of the retrieved content to the user (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the buffering of the retrieved content reduces variations in a rate of delivery of the retrieved content to the user as taught by Colville et al in the claimed invention of Ellis et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

c. As per claims 5, 24 and 43, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the third network has high bandwidth for delivering

content downstream from the content library compared to the bandwidth of the second network for sending requests upstream to the content library.

Colville et al teaches wherein the third network has high bandwidth for delivering content downstream from the content library compared to the bandwidth of the second network for sending requests upstream to the content library (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the third network has high bandwidth for delivering content downstream from the content library compared to the bandwidth of the second network for sending requests upstream to the content library as taught by Colville et al in the claimed invention of Ellis et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

d. As per claims 10, 29 and 48, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein after an initial request for content is sent to the content library, the step of sending a request for content is repeated for subsequent requests.

Colville et al teaches wherein after an initial request for content is sent to the content library, the step of sending a request for content is repeated for subsequent requests (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein after an initial request for content is sent to the content library, the step of sending a request for content is repeated for subsequent requests as taught by Colville et al in the claimed invention of Ellis et al in order to allow playback to be smooth on networks

that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

e. As per claims 11, 30 and 49, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein if content is lost before being delivered downstream to the user, a request for the lost content is sent upstream to the content library along with a subsequent request for content.

Colville et al teaches wherein if content is lost before being delivered downstream to the user, a request for the lost content is sent upstream to the content library along with a subsequent request for content (See page 4, paragraph [0048])

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein if content is lost before being delivered downstream to the user, a request for the lost content is sent upstream to the content library along with a subsequent request for content as taught by Colville et al in the claimed invention of Ellis et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

f. As per claims 12, 31 and 50, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the step of sending a request for content is performed while content retrieved based on previously sent requests is received and processed.

Colville et al teaches wherein the step of sending a request for content is performed while content retrieved based on previously sent requests is received and processed (See page 4, paragraph [0048]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the step of sending a request for content is performed while content retrieved based on previously sent requests is received and processed as taught by Colville et al in the claimed invention of Ellis et al in order to allow playback to be smooth on networks that have jitter or inconsistent bandwidth response (See page 4, paragraph [0048]).

6. Claims 6, 25 and 44 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2004/0123325 to Ellis et al in view of U.S. Patent 5,828403 to DeRodeff et al.

a. As per claims 6, 25 and 44, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the first network includes an RF network.

DeRodeff et al teaches wherein the first network includes an RF network (See page 57-64).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the first network includes an RF network as taught by DeRodeff et al in the claimed invention of Ellis et al to carry analog and digital programs and applications (See col. 1, lines 57-64)

7. Claims 15-17, 34-36 and 53-55 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent Application No. 2004/0123325 to Ellis et al in view of U.S. Patent Application No. 2003/0140257 to Peterka et al.

a. As per claims 15, 34 and 53, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the retrieved content received from the content library is in an encrypted form, and the step of processing includes decrypting the encrypted retrieved content.

Peterka et al teaches wherein the retrieved content received from the content library is in an encrypted form, and the step of processing includes decrypting the encrypted retrieved content (See page 3, paragraph [0031)

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the retrieved content received from the content library is in an encrypted form, and the step of processing includes decrypting the encrypted retrieved content in order to provide secure streaming or download of content from a content provider (See page 3, paragraph [0030]).

b. As per claims 16, 35 and 54, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the step of sending the request for content includes sending authentication information to gain access to the content in the content library.

Peterka et al teaches wherein the step of sending the request for content includes sending authentication information to gain access to the content in the content library (See page 3, paragraph [0033])

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the step of sending the request for content includes sending

authentication information to gain access to the content in the content library in order to provide secure streaming or download of content from a content provider (See page 3, paragraph [0030]).

c. As per claims 17, 36 and 55, Ellis et al teaches the claimed invention as described above. However, Ellis et al fails to teach wherein the content library is associated with a content library server that performs file system processing on the content retrieved from the content library.

Peterka et al teaches wherein the content library is associated with a content library server that performs file system processing on the content retrieved from the content library (See page 3, paragraph [0035] and page 5, paragraph [0045]).

It would have been obvious to one with ordinary skill in the art at the time the invention was made to incorporate wherein the content library is associated with a content library server that performs file system processing on the content retrieved from the content library as taught by Peterka et al in the claimed invention of Brodigan in view of Schumacher et al in order to provide secure streaming or download of content from a content provider (See page 3, paragraph [0030]).

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Djenane M. Bayard whose telephone number is (571) 272-3878. The examiner can normally be reached on Monday- Friday 5:30 AM- 3:00 PM..

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Rupal Dharia can be reached on (571) 272-3880. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

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Patent Examiner

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